

REQUEST FOR PROPOSAL  
FOR  
Multicultural Tourism Promotion Consultant  
Services

New Jersey Commerce, Economic,  
Growth and Tourism Commission  
( "COMMISSION" )

Date Issued September 15, 2005

RESPOND BY 10 a.m. EST ON

October 7, 2005

**New Jersey Commerce, Economic Growth and Tourism Commission  
REQUEST FOR PROPOSAL**

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FOR: Multicultural Tourism Promotion Consultant

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Bid No :NJC091505  
Date Issued :September 15, 2005  
N.J. Vendor No :  
Bidder Phone No :  
Bidder Fax No :  
Bidder Fein/SSN :  
Requistion No :

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Estimated Amount:  
Contract Effective Date:  
Contract Expiration Date:  
Set Aside: Small Businesses Category I, II, OR III

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DIRECT QUESTIONS CONCERNING THIS RFP TO:

NAME: Anthony Minick PHONE: 609-292-2497  
Senior Marketing Specialist

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**SET-ASIDE CONTRACTS**

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This is a Set-Aside Contract for **Categories I, II, or III Small Businesses**. The bidder should provide, with its bid proposal, evidence of current and valid registration as a small business from the New Jersey Commerce, Economic Growth & Tourism Commission (Commerce). In the alternative, evidence that the bidder has registered with Commerce, as a small business, must be received on the date the bid proposal is due and opened.

**\*\*\*\*\*IMPORTANT NOTE: EVEN IF YOU ARE AN INCUMBENT BIDDER AND/OR HAVE BEEN PREVIOUSLY REGISTERED OR CERTIFIED UNDER THE FORMER SBE/MBE/WBE PROGRAM, YOU WILL NEED TO BE SURE THAT YOU ARE REGISTERED ON THE DAY OF BID RECEIPT AND OPENING WITH THE COMMERCE COMMISSION UNDER THE NEW, SMALL BUSINESS PROGRAM TO BE ELIGIBLE FOR AWARD. THE TELEPHONE NUMBER TO CALL TO CHECK YOUR STATUS IS 609 292-2146.\*\*\*\*\***

PROPOSALS WHICH FAIL TO CONFORM WITH THE FOLLOWING REQUIREMENTS  
WILL BE AUTOMATICALLY REJECTED:

- 1) PROPOSALS, IN THE FORM OF SEALED BIDS, MUST BE RECEIVED AT NEW JERSEY COMMERCE & ECONOMIC GROWTH AND TOURISM COMMISSION LOCATED AT 20 WEST STATE STREET, P.O. BOX 820, TRENTON, NJ 08625-0820 BEFORE THE PUBLIC OPENING TIME OF 10 a.m. EST ON October 7, 2005 AT THE FOLLOWING PLACE:  
Conference Room 436, 4th Floor .

TELEPHONE, TELEFACSIMILE OR TELEGRAPH PROPOSALS WILL NOT BE ACCEPTED. THE ACCOMPANYING SELF-ADDRESSED ENVELOPE SHOULD CONTAIN OR BE ATTACHED TO THE PROPOSAL.

**"SEALED BID - Multicultural Tourism Promotion Consultant \_"**

MUST BE INDICATED ON THE OUTSIDE OF THE ENVELOPE. EACH BIDDER MUST SUBMIT THREE COPIES OF THEIR BID: ONE (1) MARKED "ORIGINAL" AND TWO (2) FULL, COMPLETE AND EXACT COPIES OF THE ORIGINAL, MARKED "COPY". NO FACSIMILES WILL BE ACCEPTED. THE AGENCY RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS FOR ANY REASON INCLUDING BUT NOT LIMITED TO THE AGENCY'S DETERMINATION OF COST VS. BENEFIT.

BID DOCUMENTS ARE CONSIDERED PUBLIC INFORMATION AND ARE SUBJECT TO THE PROVISIONS OF THE OPEN PUBLIC RECORDS ACT, N.J.S.A. 47:1A-1 ET SEQ. AND N.J.A.C. 12A:4-7.3. AFTER THE OPENING, BIDS ARE AVAILABLE FOR REVIEW UPON REQUEST.

- 2) THE BIDDER MUST SIGN THE PROPOSAL.
- 3) THE PROPOSAL MUST INCLUDE ALL PRICE INFORMATION. PROPOSAL PRICES SHALL INCLUDE DELIVERY OF ALL ITEMS F.O.B. DESTINATION OR AS OTHERWISE PROVIDED. PRICE QUOTES MUST BE FIRM THROUGH ISSUANCE OF CONTRACT.
- 4) ALL PROPOSAL PRICES MUST BE TYPED OR WRITTEN IN INK.
- 5) ALL CORRECTIONS, WHITE-OUTS, ERASURES, RESTRIKING OF TYPE, OR OTHER FORMS OF ALTERATION, OR THE APPEARANCE OF ALTERATION TO UNDO AND/OR TOTAL PRICES MUST BE INITIALED IN INK BY THE VENDOR.
- 6) THE BIDDER MUST SUBMIT WITH THE PROPOSAL BID SECURITY IN THE AMOUNT OF \$ NA OR NA %. CHECK THE TYPE OF BID SECURITY SUPPLIED: NA ANNUAL BID BOND ON FILE. PERFORMANCE SECURITY NOT REQUIRED.
- 7) THE BIDDER MUST COMPLETE AND SUBMIT, PRIOR TO THE SUBMISSION OF THE PROPOSAL, OR ACCOMPANYING THE PROPOSAL, THE ATTACHED OWNERSHIP DISCLOSURE FORM.
- 8) THE BIDDER MUST ATTEND THE MANDATORY PRE-BID CONFERENCE(S) AND SITE VISIT(S) AT THE FOLLOWING DATE(S) AND TIME(S): Not required.

### ADDITIONAL REQUIREMENTS

- 9) PAYMENT RETENTION: Not Required
  - 10) AN AFFIRMATIVE ACTION FORM (ATTACHED)
  - 11) REQUESTED DELIVERY: Bidder to provide project timeline.
  - 12) CERTIFICATION OR NOTIFICATION OF REGISTRATION WITH THE SECRETARY OF STATE IF A FOREIGN (NON-NJ) CORPORATION, IF NECESSARY (SEE N.J.S.A. 14A:13-1 ET SEQ. AND N.J.A.C. 17:12-2.12)
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### TO BE COMPLETED BY BIDDER

- 13) DELIVERY CAN BE MADE \_\_\_\_\_ DAYS OR \_\_\_\_\_ WEEKS AFTER RECEIPT OF ORDER.
  - 14) CASH DISCOUNTS TERMS (SEE ATTACHED NOTICE): \_\_\_\_\_%,  
\_\_\_\_\_ DAYS: NET \_\_\_\_\_ DAYS
  - 15) BIDDER PHONE NO. \_\_\_\_\_
  - 16) BIDDER FAX NO. \_\_\_\_\_
  - 17) BIDDER FEDERAL ID NO. \_\_\_\_\_
  - 18) YOUR BID REFERENCE NO. \_\_\_\_\_
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SIGNATURE OF THE BIDDER ATTESTS THAT THE BIDDER HAS READ, UNDERSTANDS, AND AGREES TO ALL TERMS, CONDITIONS, AND SPECIFICATIONS SET FORTH IN THE REQUEST FOR PROPOSAL ("RFP"), INCLUDING ALL ADDENDA. FURTHERMORE, SIGNATURE BY THE BIDDER SIGNIFIES THAT THE REQUEST FOR PROPOSAL AND THE RESPONSIVE PROPOSAL CONSTITUTES A CONTRACT IMMEDIATELY UPON NOTICE OF ACCEPTANCE OF THE PROPOSAL BY THE NEW JERSEY COMMERCE, ECONOMIC GROWTH AND TOURISM COMMISSION FOR ANY OR ALL OF THE ITEMS BID, AND FOR THE LENGTH OF TIME INDICATED IN THE REQUEST FOR PROPOSAL. FAILURE TO ACCEPT THE CONTRACT WITHIN THE TIME PERIOD INDICATED IN THE REQUEST FOR PROPOSAL, OR FAILURE TO HOLD PRICES OR TO MEET ANY OTHER TERMS AND CONDITIONS AS DEFINED IN EITHER THE REQUEST FOR PROPOSAL OR THE PROPOSAL DURING THE TERM OF THE CONTRACT, SHALL CONSTITUTE A BREACH AND MAY RESULT IN SUSPENSION OR DEBARMENT FROM FURTHER COMMISSION BIDDING. A DEFAULTING CONTRACTOR MAY ALSO BE LIABLE, AT THE OPTION OF THE COMMISSION, FOR THE DIFFERENCE BETWEEN THE CONTRACT PRICE AND THE PRICE BID BY AN ALTERNATIVE BIDDER OF THE GOODS OR SERVICES.

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- 19) ORIGINAL SIGNATURE OF BIDDER
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- 20) NAME OF FIRM

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21) PRINT/TYPE NAME AND TITLE

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22) DATE

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**NOTICE TO BIDDERS  
SET-ASIDE CONTRACTS  
N.J.S.A 52:32-17, N.J.A.C. 17:13, 12A:10**

PURSUANT TO THE PROVISIONS OF THE NEW JERSEY STATUTE AND ADMINISTRATIVE CODE CITED ABOVE, THIS CONTRACT HAS BEEN DESIGNATED AS A SETASIDE CONTRACT FOR SMALL BUSINESS. AS INDICATED ON PAGE 2 OF THIS DOCUMENT, AS SUCH, ELIGIBILITY TO BID IS LIMITED TO BIDDERS THAT MEET STATUTORY AND REGULATORY REQUIREMENTS AND HAVE HAD THEIR ELIGIBILITY DETERMINED BY THE NEW JERSEY COMMERCE, ECONOMIC GROWTH & TOURISM COMMISSION (COMMERCE). THE DEFINITIONS OF EACH SMALL BUSINESS SET-ASIDE CATEGORY CAN BE FOUND AT N.J.A.C. 17:13-1.2 OR N.J.A.C. 12A:10-1.2.

THE REGULATIONS PROVIDE THE FOLLOWING;

*"**SMALL BUSINESS**" MEANS A BUSINESS THAT HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE OF NEW JERSEY [defined when at least 51% of current employees work in NJ supported by paid unemployment taxes or 51% of business is conducted in NJ supported by income and/or business tax returns], IS INDEPENDENTLY OWNED AND OPERATED, AND HAS NO MORE THAN 100 FULL-TIME EMPLOYEES.*

*SMALL BUSINESS ARE PLACED INTO THE FOLLOWING CATEGORIES:  
Category I) THOSE WITH GROSS REVENUES UP TO \$500,000;  
Category II) THOSE WITH GROSS REVENUES OF UP TO \$5 MILLION;  
and Category III) THOSE WITH GROSS REVENUES THAT DO NOT EXCEED \$12 MILLION.*

*WHILE COMPANIES REGISTERED AS HAVING REVENUES BELOW \$500.000 CAN BID ON ANY CONTRACT, THOSE EARNING MORE THAN THE \$500,000 AND \$5 MILLION AMOUNTS WILL NOT BE PERMITTED TO BID ON CONTRACTS DESIGNATED FOR REVENUE CLASSIFICATIONS (Categories) BELOW THEIR RESPECTIVE LEVELS.*

EACH BUSINESS INTERESTED IN BIDDING FOR THIS CONTRACT SHOULD PROVIDE, AS PART OF ITS RESPONSE TO THIS SOLICITATION, A COPY OF ITS CURRENT **APPROVAL** NOTICE FROM THE NEW JERSEY COMMERCE, ECONOMIC GROWTH & TOURISM COMMISSION. ANY BUSINESS THAT SEEKS TO REGISTER AS A SMALL BUSINESS IS REQUIRED TO SUBMIT A FEE PAYMENT ALONG WITH ITS APPLICATION TO COMMERCE.

ALL NECESSARY FORMS AND ANY ADDITIONAL INFORMATION CONCERNING REGISTRATION MAY BE OBTAINED BY CONTACTING COMMERCE'S OFFICE OF BUSINESS SERVICES, BY TELEPHONE AT THE NUMBER BELOW, OR BY MAIL, OR IN PERSON BETWEEN THE HOURS OF 9:00 A.M AND 5:00 PM AT THE ADDRESS BELOW:

**NEW JERSEY COMMERCE, ECONOMIC GROWTH & TOURISM COMMISSION  
OFFICE OF BUSINESS SERVICES  
20 WEST STATE STREET - 4TH FLOOR  
PO BOX 820, TRENTON, NJ 08625-0820      Telephone: 609-292-2146**

## **I. PURPOSE AND INTENT**

The purpose of this RFP is to hire a consulting firm to assist the New Jersey Commerce, Economic Growth and Tourism Commission to continue our multicultural tourism promotion strategy in the African-American, Asian, and Hispanic markets. The awardee of this contract will compile updated versions of New Jersey's African-American, Asian, and Latino's visitor's guides.

## **II. BACKGROUND**

Based on our research findings several years ago, the Commission determined that the African - American and Hispanic markets represent a significant opportunity for potential growth for New Jersey's leisure industry. To capitalize on this significant opportunity, The New Jersey Commerce, Economic Growth and Tourism Commission created and developed a multicultural tourism program. This program was designed to increase minority tourism in New Jersey, increase the success of minority businesses in the tourism industry, and educate all ethnic groups to New Jersey attractions that may not be very well known. We decided that ethnic visitor guides would be the cornerstones of our multicultural marketing effort is to promote New Jersey as a vacation and meeting destination for all visitors and residents. Developing guides provides a framework for ascertaining events, businesses and destinations that were being overlooked. The guides provide a tangible symbol to illustrate the importance we place on these markets. The guides educate the industry and visitors to new opportunities within New Jersey.

We introduced the first New Jersey tourism guide focusing on its ethnic markets in February of 1999. The African - American Heritage Guide highlighted New Jersey's rich African - American heritage. It included special events, celebrations, restaurants, cultural institutions and other areas of interest to the African - American visitor, and tourist interested in New Jersey's rich African - American experiences. After the success of the African - American Guide, the program was expanded to include both a Latino and Asian visitors guide.

### **III. Technical Specifications**

The multicultural guides are printed and distributed by the Commission annually. The successful bidder will be expected to supply adequate travel and tourism copy writing skills to describe the special sections, itineraries and other material that the contractor prescribes. (See current issue as a guide)

It is expected that this contract will be for one year with a possibility of an extension for three additional years.

### **IV. SCOPE OF WORK**

Compile annual African- American, Asian, and Latino guides to multicultural travel destinations by incorporating the following:

- Research on and review out of state multicultural tourism guides aimed Latino, African - American, and Asian audiences.
- Review secondary research (books, reports, periodicals) for information on multicultural New Jersey vacation destinations, historic and cultural sites and special events of appeal to a multicultural audience.
- Research and evaluate readiness for tourism attractions identified in the research component of the project.
- Research and obtain photos/maps for use in the publications.
- Prepare narrative copy for each publication.
- Prepare copy describing all sites and events compiled for inclusion in the publication.
- Prepare language translations if required.
- Prepare original design and layout at dimensions compatible with the Office of Travel and Tourism distribution channels.
- Prepare color proofs, revisions, output ready disk and specifications for print production and work with state-designated vendor to oversee print production.

**BIDDERS NOTE:** The Commission reserves the right to reduce the required scope of work at the time of award or in accord with (Standard Terms & Conditions, Subsection 3.7(Reduction in Scope of Work) of section 3.



## **V. BIDDER PROPOSAL**

1. Bidder must include a project schedule to complete the development of the guides in the following order: Latino - English/ Spanish translated version, Asian, and African - American.
2. Bidder must research and provide recommendations on the content and focus for each of the three guides.
3. Bidder must provide hourly rates by labor category and the number of hours to compile the guides. The price quotation for each guide should be prepared separately.
4. Bidder must provide examples of prior or current work, client list- including contact information for references, provide employee resumes for key personnel responsible for the performance of the work and including their experience on similar projects.
5. Bidder must provide names and resumes of employees for sub-contractors. (If applicable)

## **VI. STANDARD TERMS AND CONDITIONS**

### **1. KEY EVENTS AND IMPORTANT DATES**

- 1.1. Questions and Inquiries: It is the policy of the Commission to accept any written questions and inquiries from all potential bidders receiving this RFP. Written questions should be mailed, faxed or e-mailed to the following address: Anthony Minick, Marketing, NEW JERSEY COMMERCE, ECONOMIC GROWTH AND TOURISM COMMISSION, 20 WEST STATE STREET, P.O. Box 820, Trenton, NJ 08625-0820; fax number:609-777-3106;e-mailaddress: Anthony.minick@commerce.state.nj.us.
- 1.2. Cut-off Date for Questions and Inquiries: The cut-off for written questions and inquiries relating to this RFP is by **5:00 p.m. on September 26, 2005.**
- 1.3. Question Protocol: Questions should be submitted in writing to the attention to Anthony Minick, Senior Marketing Specialist. Written questions should be directly tied to the RFP by the Bidder. Questions should

be asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section to which it relates. Any questions received by Mr. Minick after the cut off time will not be considered.

- 1.4. Revisions to the RFP: Only written modifications issued via addendum are considered to be alterations to the RFP. Oral comments are not binding. An Addendum will be issued for any revisions, modifications, clarifications or alterations to the RFP and shall become part of the final Contract resulting from this RFP. If it becomes necessary to amend the RFP, an Addendum will be issued and publicly advertised a minimum of five (5) business days in advance of the bid opening date and time, which will be extended, if necessary in order to meet the five (5) business day requirement.

## **2. BIDDER'S STATUS AND RESPONSIBILITIES**

- 2.1. Bidder's Responsibility: The Bidder assumes sole Responsibility for the complete effort required in this RFP. No special consideration will be given after bids are opened because of a Bidder's failure to be knowledgeable of all the requirements of this RFP. When a bid is submitted to the Agency in response to this RFP, it confirms that the Bidder has satisfied all the requirements of this RFP.
- 2.2. Cost Liability: The Commission and the State of New Jersey assume no responsibility and bear no liability for costs incurred by Bidders in the preparation and submittal of the bids in response to this RFP.
- 2.3. Bid Preparation and Submission: The bid must include the following documents. Failure to submit or sign any of the required documents will result in immediate disqualification.
  - a. Three (3) copies of bid (one marked "ORIGINAL" and the other two marked as "COPY").
  - b. Signed Bidder's Checklist (Attachment A) and all forms required to be submitted listed thereon (Attachments B through E).
  - c. Business Registration (see, N.J.S.A. 52:32-44).

2.4. Automatic Rejection of Bids: The failure of Bidders to fulfill all bid requirements will result in automatic bid rejection. The following grounds are established for the rejection of bids:

- a. Failure to submit the bid on or before the time and date, and at the place specified in the RFP document;
- b. Failure to submit the bid in ink (pencil is unacceptable);
- c. Failure to sign documents in ink where indicated;
- d. Failure to initial price alterations in ink;
- e. Failure to submit a sealed bid when required. Telephoned and faxed bids will not be accepted; and
- f. Failure to provide information or other supplemental materials/requirements specified in the RFP.

2.5. Acceptance of Proposal Content

The contents of the proposal of the successful bidder will become a part of any contract as a result of these specifications.

2.6. Economy of Preparation

Proposals should be prepared simply and economically, providing a straight forward, concise description of bidder capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content.

Each copy of the proposal should be bound in a single volume where practical. All documentation submitted with proposal should be bound in that single volume.

2.7. Oral Presentation

Bidders who submit proposals in response to this RFP may be required to give an oral presentation of their proposal to the Commission. This will provide an opportunity for the bidder to clarify or elaborate on his proposal but will in no way change the bidder's original bid. The Commission will schedule the time and location of these presentations. The Commission reserves the right to select one or more bidders for oral presentation. Selection for oral presentation does not indicate that the bidder has been short listed for further consideration.

2.8. Contractor Responsibilities

The selected bidder will be required to assume sole

responsibility for the complete effort as required by this RFP and to be completely familiar with the requirements of this RFP. By submitting a Proposal in response to this RFP, the bidder represents that it has satisfied itself, from its own investigation, of all of the requirements of this RFP. The Commission will consider the selected bidder to be the sole point of contact with regard to contractual matters. The term "contractor" as used in this RFP shall mean the selected bidder.

2.9. Subcontracting

No part of the work covered by the RFP is to be subcontracted, without the prior written consent of the COMMISSION.

2.10. Bid Errors: If a bidder discovers an error after submitting their bid, but prior to bid opening, the bidder may request that the bid be withdrawn. This request must be submitted in writing to Anthony Minick, Senior Marketing Specialist and signed by an officer or authorized representative of the firm. If the request is approved, the bidder may submit a revised bid as long as it is received prior to the date and time of bid opening.

No alterations or corrections to the bids are permitted after the bids are opened. If an error is discovered after the bid but before contract award, the bidder may request that their bid be withdrawn. An officer or authorized representative of the firm must submit this request in writing to Anthony Minick, Senior Marketing Specialist. The decision to permit withdrawal of the bid after contract award will be at the discretion of the CEO. In this case, the bidder requesting withdrawal will be liable for any administrative expenses incurred as a result of contract cancellation and subsequent re-award.

2.11. Indemnification:

- a. The Contractor shall assume all risk of and responsibility for and agrees to indemnify, defend, and save harmless the New Jersey Commerce, Economic, Growth and Tourism Commission ("COMMISSION") and the State of New Jersey and their employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under this Contract. This indemnification obligation is not

limited by, but is in addition to the insurance obligations contained in this agreement.

- b. The COMMISSION and the State of New Jersey assumes no obligation to indemnify or save harmless the Contractor, its agents, servants, employees or subcontractors for any claim which may arise out of its performance of the Contract.
- c. Any approval by the COMMISSION of the work performed by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract.
- d. The provisions of this indemnification shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the COMMISSION from taking any other actions available to it under any other provisions of the contract or otherwise at law or equity.

2.12.Liability - Copyright - The contractor shall hold and save the COMMISSION and the State of New Jersey, its officers, agents, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of his contract.

2.13.Insurance - The contractor shall secure and maintain in force for the term of the contract liability insurance as provided herein. The Contractor shall provide the COMMISSION with current certificates of insurance for all coverages and renewals thereof, naming the COMMISSION as an additional insured and which must contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after thirty days written notice to:

Anthony Minick  
New Jersey Commerce, Economic, Growth and Tourism  
Commission,  
20 West State Street,  
P.O. BOX 820  
Trenton, NJ 08625

The insurance to be provided by the contractor shall be as follows:

- a. A Commercial General Liability policy as broad as the standard coverage forms in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the breadth of coverage.
- b. The limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.
- c. Automobile liability insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit.
- d. Workers Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
  - \$1,000,000 BODILY INJURY, EACH OCCURRENCE
  - \$1,000,000 DISEASE EACH EMPLOYEE
  - \$1,000,000 DISEASE AGGREGATE LIMIT

2.14. Contract Amount - The estimated amount of the contract(s), when stated on the Advertised Request for Proposal form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of this Request for Proposal or any contract entered into as a result of this Request for Proposal.

2.15. Contract Period and Extension Option - If, in the opinion of the COMMISSION, it is in the best interest of the COMMISSION to extend a contract entered into as a result of this Request for Proposal, the contractor will be so notified of the COMMISSION's intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the COMMISSION's request to extend the contract. If the contractor agrees to the extension, all terms and conditions of the original contract, including price, will be applicable.

#### 2.16. Bid and Performance Security

- a. Bid Security - If bid security is required, such security must be submitted with the bid in the amount listed in the Request for Proposal, see N.J.A.C. 12A:12-2.4. Acceptable forms of bid security are as follows:

1. A properly executed individual or annual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution properly executed individual.
2. The State will hold all bid security during the evaluation process. As soon as is practicable after the completion of the evaluation, the State will:
  - a) Issue an award notice for those offers accepted by the State;
  - b) Return all bond securities to those who have not been issued an award notice.

All bid security from contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc.). If the contractor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the contractor may be found in default and the contract terminated by the State. In case of default, the State reserves all rights inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the New Jersey Administrative Code and to recover any actual excess costs from the contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

- b. Performance Security - If performance security is required, the successful bidder shall furnish performance security in such amount on any award of a term contractor line item purchase, see N.J.A.C. 12A:4-10.1. Acceptable forms of performance security are as follows:
3. The contractor shall be required to furnish an irrevocable security in the amount listed in the Request for Proposal payable to the Treasurer, State of New Jersey, binding the contractor to provide faithful performance of the contract.

4. The performance security shall be in the form of a properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check drawn to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution.

The Performance Security must be submitted to the COMMISSION within 30 days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of contract for cause pursuant to provision 7.2B(2) and nonpayment for work performed.

2.17. Complaints - Where a bidder has a history of performance problems on state contracts as demonstrated by formal complaints and/or contract cancellations for cause, pursuant to N.J.A.C. 17:12-4.3, a bidder may be bypassed for this award.

2.18. Mergers, Acquisitions - If, subsequent to the award of any contract resulting from this Request for Proposal, the contractor shall merge with or be acquired by another firm, the following documents must be submitted to the COMMISSION.

- a. Corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices.
- b. A State of New Jersey Bidders Application reflecting all updated information including ownership disclosure.
- c. Vendor Federal Employer Identification Number. The documents must be submitted within thirty (30) days of completion of the merger or acquisition. Failure to do so may result in termination of contract pursuant to Section 7b1.

If subsequent to the award of any contract resulting from this Request for Proposal, the contractor's partnership or corporation shall dissolve; the Secretary/CEO of the COMMISSION must be so notified. All responsible parties of the dissolved partnership or corporation must submit to the CEO in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment should be made until all parties



to the dissolved partnership or corporation submit the required documents to the CEO.

2.19. Performance Guarantee of Bidder - The bidder hereby certifies that:

- a. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
- b. All equipment supplied to the COMMISSION and operated by electrical current is UL listed where applicable.
- c. All new machines are to be guaranteed as fully operational for the period stated in the Request For Proposal from time of written acceptance by the State. The bidder will render prompt service without charge, regardless of geographic location.
- d. Sufficient quantities of parts necessary for proper service to equipment will be maintained at distribution points and service headquarters.
- e. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.

### **3. Rejection of Proposal(s), Proposal Evaluation and Contract Award(s)**

#### **3.1. Rejection of Proposal(s); Negotiation**

The New Jersey Commerce, Economic, Growth and Tourism COMMISSION reserves the right, without limitation, to:

- a. Reject any and all proposals received in response to this RFP. By issuing this RFP, the COMMISSION is not obligated to award a contract. The COMMISSION may reject bids pursuant to N.J.A.C. 12A:4-9.1 for any reason included therein;
- b. Waive or modify any irregularities in proposals received;
- c. Conduct discussions with one or more bidders. No bidder shall have any rights against the COMMISSION arising from such negotiations;
- d. Award the contract without any discussion with bidders;
- e. Negotiate separately with any source whatsoever in any manner necessary.

#### **3.2. Proposal Evaluation Criteria:** Proposals may be evaluated by a committee composed of members of affected departments and agencies of the COMMISSION and in consultation with representatives(s) from the State of New Jersey, Office of Information Technology if consultation is required or desirable in the discretion of the COMMISSION. The following criteria, not necessarily listed in order of significance, will be used to evaluate proposals. These evaluation criteria categories may be used to develop more detailed criteria to be used during the evaluation process.

- a. The bidder's general approach and plans to meet the requirements of the RFP.
- b. The bidder's detailed approach and plans to perform the services required by the scope of work of this RFP.
- c. Bidding firm's documented experience in successfully completing projects of a similar size and scope to those required by this RFP.
- d. Qualifications and experience of personnel assigned to the project with emphasis on documented experience in

successfully completing work on projects of a similar size and scope to those required by this RFP.

- e. The overall ability of the bidder, as judged by the COMMISSION, to begin and complete successfully the project within the proposed schedule or on time. This judgment will include, but not be limited to, such factors as staff commitment to the project, project management and control plan, project organization and availability of staff.
- f. Bidder's Cost Proposal
- g. The bids will also be evaluated according to the criteria set forth in N.J.A.C. 12A:4-9.2.

3.3. Contract Award: The COMMISSION shall have authority to award a contract to the responsible bidder whose bid conforms to these specifications and conditions and is deemed most advantageous to the COMMISSION in its judgment upon consideration of price and other factors. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the RFP, will be most advantageous to the COMMISSION. Price, turnaround time, experience, quality and service are major considerations in the selection. Any or all bids may be rejected when the COMMISSION determines that it is in the public's best interest.

3.4. Notification of Award: The selected bidder will receive a Notice of Award. The Notice may contain certain contingency requirements that must be satisfied within a designated time frame (refer to Section 8.3 - Compliance with State and Federal Laws). Failure to comply with all provisions of the Notice of Award letter will disqualify that bidder and the award will be directed to the next qualified bidder.

3.5 Bidder Right to Protest - Intent to Award: Except in cases of emergency, Bidders have the right to protest the COMMISSION's proposed award of the Contract as announced in the Notice of Intent to Award. Unless otherwise stated, a bidder's protest must be submitted to the Secretary/Chief Executive Officer ("CEO") of the COMMISSION or his designee within 10 working days after receipt of written notification that his bid has not been accepted or that an award of contract has been made. In the public interest, the CEO may shorten this protest period, but shall provide at least 48 hours for bidders to respond to a proposed

award. In case of emergency, stated in the record, the COMMISSION may waive the appeal period.

- 3.6 Subcontracting or Assignment: The contract may not be subcontracted or assigned by the contractor, in whole or in part, without the prior written consent of the COMMISSION. Such consent, if granted, shall not relieve the contractor of any of his responsibilities under the Contract.

In the event the bidder proposes to subcontract for the services to be performed under the terms of the Contract award, he shall state so in his bid and attach for approval a list of said subcontractors and an itemization of the products and/or services to be supplied by them.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the COMMISSION.

- 3.7 Reduction of Scope of Work: The COMMISSION has the option, in its sole discretion, to reduce the scope of work for any task or subtask called for under this contract. In such an event, the Secretary shall provide advance written notice to the contractor. Upon receipt of such written notice, the contractor will submit, within five (5) working days to the Secretary and the Vice President of Marketing, an itemization of the work effort already completed by task or subtask. The contractor shall be compensated for such work effort according to the applicable portions of its cost proposal.

#### **4. Right to Inspect Facilities and Records**

- 4.1. COMMISSION'S Right to Inspect Bidder's Facilities: The COMMISSION reserves the right to inspect the contractor's establishment before making an award, for the purposes of ascertaining whether the contractor has the necessary facilities for performing the contract.

The COMMISSION may also consult with clients of the bidder during the evaluation of bids. Such consultation is intended to assist the COMMISSION in making a contract award that is most advantageous to the COMMISSION.

- 4.2. Availability of Records: The Contractor shall maintain and retain weekly payroll, overhead, cost and accounting records and all other records related to the services performed on the Project, including expenses pertaining to

additional services required by the COMMISSION on this Project. Such records shall be maintained and available for the COMMISSION'S inspection as to all aspects of the work, whether performed by the Contractor or any independent firms. These records shall be kept in accordance with generally accepted accounting principles and practices for a period of three (3) fiscal years after the expiration of the COMMISSION'S fiscal year in which the Contract expires or in which final payment is received by the Contractor under the Contract, whichever ever occurs later. (The COMMISSION'S fiscal year is from July 1 through June 30). The COMMISSION has the right to request, and Contractor agrees to furnish, free of charge, all information and copies of all records which the COMMISSION requests. The Contractor shall allow the COMMISSION'S employees and/or representatives to visit the office(s) of the Contractor periodically, upon reasonable notice, in order to review any document related to the Contract or to otherwise monitor work being performed by the Contractor pursuant to the Contract. Any failure by the Contractor to maintain or produce such records or to otherwise cooperate with the COMMISSION may be, at the COMMISSION'S discretion, cause for termination of the contract award and/or suspension or debarment of the Contractor from COMMISSION contracts.

## **5. Price and Payment**

- 5.1. Price Fluctuation During Contract: Unless otherwise noted by the COMMISSION, all prices quoted shall be firm through issuance of Contract or purchase order and shall not be subject to increase during the period of the Contract. In the event of a manufacturer's or Contractor's price decrease during the Contract period, the COMMISSION shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the Contract period. The CEO must be notified in writing of any price reduction within five (5) business days of the effective date.

Failure to report price reductions will result in cancellation of Contract for cause, pursuant to Section 7.2 - Suspension of Project and Termination of the Contract Award.

- 5.2. Payment for Goods and Services: The COMMISSION will pay for goods and services within sixty (60) calendar

days of the agency's receipt of an undisputed invoice or within sixty (60) calendar days of receipt and acceptance of goods and services, whichever is later. Payment will be made against the state payment voucher system.

- 5.3. Contractor Compensation The Contractor shall submit an invoice upon completion of the project. Payment will not be made until the COMMISSION has approved payment.

## 6. Conflicts of Interest

- 6.1. Standards Prohibiting Conflicts of Interest: The following prohibitions on vendor activities shall apply to all contracts or purchase agreements made with the COMMISSION.

- a. No bidder shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any COMMISSION member or employee or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such member or employee, or partnership, firm, or corporation with which they are employed or associated, or in which such member or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
- b. The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by any COMMISSION member or employee from any State Bidder shall be reported in writing forthwith by the bidder to the Attorney General and the Executive COMMISSION on Ethical Standards.
- c. No Bidder may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or another agreement, express or implied, or sell any interest in such Bidder to, any COMMISSION member or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships

subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the COMMISSION member or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

- d. No Bidder shall influence, or attempt to influence or cause to be influenced, any COMMISSION member or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgement of said officer or employee.
- e. No Bidder shall cause or influence, or attempt to influence or cause to be influenced, any COMMISSION member or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Bidder or any other person.
- f. The provisions cited above in paragraph A through E above shall not be construed to prohibit an COMMISSION member or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph C. above.

- 6.2 Bidders Warranty: By submitting a proposal in response to the RFP, the bidder warrants and represents that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. The penalty for breach or violation of this provision may result in termination of the contract award without the COMMISSION being liable for damages, costs and/or attorney fees. In the COMMISSION'S discretion, a deduction may be made from the Contract price or consideration to be paid on such commission, percentage, brokerage or contingent fee which may be due and owing.

## **7. Project Term and Termination**

- 7.1. Project Term: The term of this contract award is from the date of issuance of the notice of Award through the

completion date set forth in the scope of work, or if sooner, the completion date set forth in the Proposal, unless otherwise expressly agreed between the parties.

7.2. Project Suspension and Termination of the Contract Award:

- a. Suspension of Project: If, for any reason, the project for which the Contractor's services were contracted should be suspended, the CEO may suspend this Contract upon seven (7) business days written notice to the Contractor. Upon receipt of such notice, unless otherwise directed in writing by the CEO, the Contractor shall immediately discontinue all work under the Contract. Upon such notification, the Contractor shall be paid a proportion of the fee which the services actually and satisfactorily performed by it shall bear to the total services completed under the Contract, less payments previously made. The COMMISSION may order that the work on the project be stopped temporarily, and upon seven (7) business days written notice from the CEO, the Contractor shall cease all work on the project except as necessary to properly secure the project. If the COMMISSION directs that the work on the project resume within six (6) months, the Contractor shall be obliged to complete the project for the basic fee provided for in this Contract, plus additional compensation for any work necessitated by the stop order as approved by the CEO in writing.

However, in the event that services are scheduled to end either by contract expiration or by rescission of the contract award by the CEO (at the COMMISSION'S discretion), it shall be incumbent upon the Contractor to continue the service if requested by the CEO to do so, until new services, if any, are completely operational. At no time shall this transitional period extend more than ninety (90) calendar days beyond the expiration or termination date of the existing Contract, except by agreement of the parties. The Contractor will be reimbursed for this service at the rate in effect when this transitional period clause is invoked by the CEO.

- b. Termination of the Contract Award: The CEO may terminate the Contract award at any time during the duration of the Contract, without penalty, subject to the following provisions:



1. Change of Circumstances: Where circumstances change and/or the needs of the COMMISSION change, or the Contract is otherwise deemed by the CEO to no longer be in the public interest, the CEO may terminate the contract award upon no less than thirty (30) calendar days notice to the Contractor. In the event of such a termination of the contract award, the Contractor shall furnish to the COMMISSION, free of charge, such closeout reports as may reasonably be required.
2. For Cause:
  - a) Where a Contractor fails to perform or comply with the Contract and/or fails to provide information requested by the COMMISSION, the CEO may terminate the contract award upon ten (10) calendar days notice to the Contractor with an opportunity to protest said termination and/or request an informal hearing, if necessary, and issue a final agency decision regarding termination of the Contract.
  - b) Where a Contractor continues to perform a Contract poorly as demonstrated by written findings issued by the COMMISSION and provided to the Contractor, the CEO, or the CEO'S designee, may issue a Notice of Intent to Terminate the Contract Award with a ten (10) calendar day opportunity for the Contractor to protest such termination and/or request an informal hearing. If the Contractor protests, the CEO will complete the hearing, if necessary, and issue a final agency decision regarding termination and related issues including, but not limited to, damages payable to the State.
  - c) The CEO's right to terminate award for cause includes any reason set forth in any other provision contained in the Contract.
  - d) The failure of a Contractor to respond to the CEO's notice of intent to terminate the contract award within the ten (10) calendar day period automatically converts said notice into a final agency decision without further action of the CEO.
  - e) The CEO's right to terminate the contract award for cause includes the Contractor's performance on any other State Contract, a violation of state or federal law (as demonstrated by the Contractor's admissions of same or a final decision of an appropriate decision-making body), or any reason related to the ability of the Contractor to fulfill its contractual obligations.

The CEO may also terminate any contract with a Contractor that has been debarred by New Jersey, another State or the federal government.

3. In cases of emergency, the CEO may shorten the time periods of notification and may dispense with an opportunity to respond.
4. Upon a termination of the contract award under this or any other paragraph herein, the Contractor shall be entitled to receive as full compensation for services rendered to the date of termination or that portion of the fee which represents the services actually and satisfactorily performed by it, as determined by the CEO, shall bear to the total services contemplated under this Contract, less payments previously made.
5. Upon termination of the contract award, the CEO may acquire the services that are the subject of the Contract from another source and may charge the Contractor whose contract award has been terminated the difference in price, and the said Contractor shall be liable for same.
6. All protests of the CEO's intent to terminate a contract award must be accompanied by a statement of the factual and/or legal basis of the protest and copies of all documents which the Contractor believes supports its position.
7. If the CEO determines that an informal hearing is required, said informal hearing shall be conducted by the CEO, or the designee thereof, prior to the issuance of the final agency decision regarding the interpretation of the Contract, Contractor performance and/or termination of the contract award. The informal hearing will be conducted pursuant to the provision of 12A:1-1 et seq.

## **8. Applicable Law**

- 8.1. Applicable Law: This RFP and any and all litigation arising there from or related thereto shall be governed by the applicable laws, regulations, and rules of evidence of the State of New Jersey without reference to conflict of law principles. Any litigation arising from this Agreement shall be under the jurisdiction of and filed in Mercer County, New Jersey.

8.2. Claims: All claims asserted against COMMISSION by any Bidder or Contractor shall be subject to the requirements set forth in the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

8.3. Compliance with State and Federal Laws: If you are awarded this Contract, you will be required to comply with all applicable Federal and State laws, including the requirements of N.J.S.A. 10:5-31 et seq., P.L. 1975, C. 127 (N.J.A.C. 17:27), and other applicable law as indicated in Attachment A. A signed copy of Attachment D for purposes of the foregoing compliance or a copy of either a Letter of Federal Approval or a State Certificate of Employee Information Report must be submitted with your bid.

## 9. Miscellaneous

9.1. Conflict of Documents: Should any of the terms of any documents connected to the offer, acceptance, supply of goods, performance of services, and/or any verbal representations be in conflict with the terms and conditions set forth in this RFP, the terms of the RFP shall supersede all other documents and/or verbal representations. The only exception would be if the Agency amends the RFP.

9.2. Severability: The invalidity of any portion of this RFP will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of the agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

9.3. Key Personnel: Only certain key personnel employed by a Bidder are to perform the specific services required by this engagement, and if the performance of the services personally by the certain key personnel becomes impossible, then personnel of the same or greater training and experience shall be substituted after consultation and written approval by the COMMISSION. At no time shall the fees and expenses charged for any such substitution exceed the fees and

expenses originally agreed to by the parties.

- 9.4. Retainage: If retainage is required on the Contract, the COMMISSION will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the Contractor and acceptance by the COMMISSION of all services, deliverables or work products required by the Contract.

For ongoing term Contracts, the NJCECG will retain the stated percentage of each invoice submitted. At the end of the three (3) month period after payment of each invoice, the COMMISSION will review the Contractor's performance and if performance has been satisfactory, the COMMISSION will release the retainage for the preceding three (3) month period. Following the expiration of the Contract, retained fees will be released to the Contractor after certification by the COMMISSION'S project manager, if any, that all services have been satisfactorily performed.

- 9.5. Publicity: Publicity and/or public announcement pertaining to the project shall be approved in writing by the COMMISSION prior to release.
- 9.6. Bidder's Exceptions: If a bidder proposes changes or modifications or takes exception to any of the State's terms and conditions, the bidder must so state specifically in writing in the bid proposal. Any proposed change, modification or exception in the State's terms and conditions by a bidder will be a factor in the determination of an award of a contractor purchase agreement.
- 9.7. Conflict of terms: All of the COMMISSION'S terms and conditions will become a part of any contract(s) or order(s) awarded as a result of the Request for Proposal, whether stated in part, in summary or by reference. In the event the bidder's terms and conditions conflict with the COMMISSION'S, the COMMISSION'S terms and conditions will prevail, unless the bidder is notified in writing of the COMMISSION'S

acceptance of the bidder's terms and conditions.

- 9.8. Citations: The statutes, laws or codes cited are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

**10. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS**

- 10.1. Business Registration B Effective September 1, 2004, pursuant to an amendment to N.J.S.A.52:32-44, State and local entities (including the COMMISSION) are prohibited from entering into a contract with an entity unless the contractor has provided a copy of its business registration certificate (or interim registration) as part of its bid submission. As mandated by this bid, failure to submit a copy of the Business Registration Certificate within the bid proposal will be cause for rejection of the bid proposal.
- 10.2. Remittance of Taxes: The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the ASales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. This requirement shall apply to all contracts awarded on and after September 1, 2004. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at.
- 10.3. Anti-Discrimination - All parties to any contract with the State of New Jersey agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:5-1 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued thereunder.
- 10.4. Prevailing Wage Act - The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.26 et seq. is hereby made part of every contract entered into on behalf of the State of New

Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act.

10.5. Americans with Disabilities Act - The contractor must comply with all provisions of the Americans With Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101 et seq.

10.6. The Worker and Community Right to Know Act - The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the Act.

10.7. Contractor's Status and Responsibilities

- a. Contractor's Status: The Contractor's status shall be that of an independent contractor and not that of an employee of the State or the COMMISSION. The Contractor shall not be an employee of a health care organization, as defined in the COMMISSION'S enabling legislation.
- b. Bidder/Contractor's Certification as to its Representatives: The bidder certifies that all representations made by it in its Proposal or other related and/or supporting materials are true, subject to penalty of law. Further, the Contractor agrees that the violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract may be cause for termination of the contract award. In addition, the Contractor's violation Of any statute or regulation relating to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract shall serve as a legal bar to the Contractor's enforcement of its rights under the Contract including

any and all claims at law or equity.

- c. Contractor's Performance: The Contractor agrees to, perform in a good, skillful and timely manner all services set forth in the Contract. The Contractor has an affirmative obligation to promptly notify, in writing, the COMMISSION of any changes in circumstances which might affect the Contractor's ability to be awarded or to perform its obligations under the Contract.
  
- d. Responsibilities of Contractor:
  - 1. The Contractor is responsible for the quality, technical accuracy and timely completion and delivery of all services to be finished by the Contractor under the Contract.
  - 2. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services furnished under the Contract. The acceptance or payment for any of the services rendered under the Contract shall not be construed as a waiver by the COMMISSION of any rights under the Contract or of any cause of action arising out of the Contractor's performance of the Contract.
  - 3. The acceptance of, approval of or payment for any of the services performed by the Contractor under the Contract shall not constitute a release or waiver of any claim the COMMISSION has or may have for latent defects or errors or other breaches or warranty or negligence.
  - 4. The Contractor shall not hire, employ or otherwise engage subcontractors to finish the performance contemplated by the Contract.
  - 5. The Contractor's obligations under this clause are in addition to or implied assurances under the Contract or law and in no way diminish any other rights that the COMMISSION may have against the Contractor.
  
- e. Investigation: By submitting a proposal in response to the RFP, the bidder certifies and warrants that it has satisfied itself, from its own investigation, of the

conditions to be met as bidder and contractor and that it fully understands its obligations and if awarded the Contract agrees that it will not make any claim for, or have right to, cancellation or relief from the Contract without penalty because of its misunderstanding or lack of information.

- f. Cost Liability: The COMMISSION assumes no responsibility and no liability for costs incurred by the bidder prior to the award of the Contract and thereafter only as specifically provided in the Contract.
- g. Availability of Records: The COMMISSION has the right to request and the Contractor agrees to furnish free of charge, all information and copies of all records and documents which the COMMISSION requests. The Contractor shall allow the COMMISSION to visit the office(s) of the Contractor periodically, upon reasonable notice, in order to review any document related to the Contract or to otherwise monitor work being performed by the Contractor pursuant to the Contract. Any failure by the Contractor to maintain or produce such records or to otherwise cooperate with the COMMISSION may be, at the COMMISSION'S discretion, cause for termination of the contract award and/or suspension or debarment of the Contractor from the COMMISSION.
- h. Data Confidentiality: All data not otherwise publicly available contained in documents supplied by the COMMISSION after the award of the Contract, any data not otherwise publicly available gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not) are to be considered confidential and shall be solely for the use of the COMMISSION. The Contractor is required to use reasonable care to protect the confidentiality of the data. Any use, sale or offering of this data in any form by the Contractor, his employees, agents, servants or assignees will be considered in violation of the Contract and will cause the information to be reported to the State Attorney General for possible prosecution. Penalties for violations of this provision include, but are not limited to, termination of the contract award and/or legal action without the COMMISSION being liable for damages, costs and/or attorney fees. The Contractor shall be liable for any and all damages arising from its breach of this confidentiality provision.
- i. No Waiver of Warranties or Remedies at Law or Equity:



Nothing in the Contract shall be construed to be a waiver by the COMMISSION or any warranty, expressed or implied, except as specifically and expressly stated in a writing executed by an authorized officer of the COMMISSION. Further, nothing in the Contract shall be construed to be a waiver by the COMMISSION of any remedy available to the COMMISSION under the Contract, at law or equity except as specifically and expressly stated in a writing executed by an authorized officer of the COMMISSION.

#### **11. Requirements of Executive Order 134**

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004. The provisions of the Order were enacted into law effective March 22, 2005, in P.L. 2005, c. 51. For convenience the terms and provisions of this statute shall be referred to as "EO 134" in this RFP. (See Attachment B for General Instructions). Pursuant to the requirements of EO 134, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

11.1. Definitions: For the purpose of this section, the following shall be defined as follows:

- a. Contribution - means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L. 1973, c. 83 (C.10:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Currently, contributions in excess of \$400 during a reporting period are deemed "reportable" under these laws. As of January 1, 2005, that threshold will be reduced to contributions in excess of \$300.
- b. Business Entity - means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. It also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a

business entity that is a corporation for profit, as appropriate; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under 26 U.S.C.A. 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing in the same household.

#### 11.2. Breach of Terms of Executive Order 134 Deemed Breach of Contract

It shall be a breach of the terms of the contract for the Business Entity to (i) make or solicit a contribution in violation of this Order, (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of EO 134; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of EO 134; or (viii) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of EO 134.

#### 11.3. Certification and Disclosure Requirements

- a. The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State or county political party

committee during certain specified time periods. Accordingly, the Business Entity shall submit with its bid proposal Executive Order 134 Certification(s) in the form set forth in Attachment B, Appendix (1) attached hereto, certifying that no contributions prohibited by Executive Order 134 have been made by the Business Entity. A separate Certification is required for each person or organization defined above as a Business Entity. Failure to submit the Certification(s) with the Bid Proposal shall be cause for automatic rejection of the proposal.

- b. Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardees of the contract shall report all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the mean of N.J.S.A. 19:44-3(n) and N.J.A.C. 19:25-1.7, in the form of the Disclosure attached hereto as Attachment B, Appendix (2). A separate Disclosure is required for each person or organization defined above as a Business Entity. Upon receipt of a Notice of Intent to Award a Contract, the intended awardees shall submit to the Division, in care of the Purchase Bureau Buyer, the Disclosure(s) within five (5) business days of the State's request.
- c. Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. A copy of the Continuing Disclosure of Political Contributions is attached hereto as Attachment B, Appendix (3). A separate Disclosure is required for each person or organization defined above as a business entity.

#### 11.4. Secretary/Chief Executive Opinion

The Secretary/CEO or her designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardees, prior to award, or during the term of the contract, by the contractor. If the CEO determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this

solicitation, the COMMISSION shall disqualify the Business Entity from award of such contract.

**ATTACHMENTS**

**NEW JERSEY COMMERCE, ECONOMIC GROWTH AND TOURISM BIDDER'S  
CHECKLIST**

I. Appendices Required to be submitted with the Bid Proposal:

- A. Executive Order Certification (Attachment A)
- B. Ownership Disclosure Form (Attachment B)
- C. Affirmative Action Supplement Forms (Attachment C)
- D. McBride Principles Form (Attachment D)
- E. Business Registration

Acknowledgement:

Original Signature of Bidder

Title:

Firm:

Date:

ATTACHMENT A

EXECUTIVE ORDER 134 REQUIREMENTS

**EXECUTIVE ORDER 129 CERTIFICATION**

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**SOURCE DISCLOSURE CERTIFICATION FORM**

Bidder: \_\_\_\_\_

Solicitation Number: \_\_\_\_\_

I hereby certify and say:

I have personal knowledge of the facts set forth herein and am authorized to make this Certification on behalf of the Bidder.

The Bidder submits this Certification as part of a bid proposal in response to the referenced solicitation issued by the Division of Purchase and Property, Department of the Treasury, State of New Jersey (the "Division"), in accordance with the requirements of Executive Order 129, issued by Governor James E. McGreevey on September 9, 2004 (hereinafter "E.O. No. 129").

The following is a list of every location where services will be performed by the bidder and all subcontractors.

| Bidder or Subcontractor | Description of Services | Performance Location[s] by Country |
|-------------------------|-------------------------|------------------------------------|
| _____                   | _____                   | _____                              |

Any changes to the information set forth in this Certification during the term of any contract awarded under the referenced solicitation or extension thereof will be immediately reported by the Vendor to the Director, Division of Purchase and Property (the "Director").

I understand that, after award of a contract to the Bidder, it is determined that the Bidder has shifted services declared above to be provided within the United States to sources outside the United States, prior to a written determination by the Director that extraordinary circumstances require the shift of services or that the failure to shift the services would result in economic hardship to the State of New Jersey, the Bidder shall be deemed in breach of contract, which contract will be subject to termination for cause pursuant to Section 3.5b.1 of the Standard Terms and Conditions.

I further understand that this Certification is submitted on behalf of the Bidder in order to induce the Division to accept a bid proposal, with knowledge that the Division is relying upon the truth of the statements contained herein.

I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Bidder: \_\_\_\_\_  
[Name of Organization or Entity]

By: \_\_\_\_\_

Title: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT B

OWNERSHIP DISCLOSURE FORM



## OWNERSHIP DISCLOSURE FORM

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE & PROPERTY  
STATE OF NEW JERSEY  
33 W. STATE ST., 9TH FLOOR  
PO BOX 230  
TRENTON, NEW JERSEY 08625-0230

BIDDER: \_\_\_\_\_  
\_\_\_\_\_

**INSTRUCTIONS:** Provide below the names, home addresses, dates of birth, offices held and any ownership interest of all officers of the firm named above. If additional space is necessary, provide on an attached sheet.

| <u>NAME</u> | <u>HOME ADDRESS</u> | <u>DATE OF BIRTH</u> | <u>OFFICE HELD</u> | <u>OWNERSHIP INTEREST</u><br>(Shares Owned or % of Partnership) |
|-------------|---------------------|----------------------|--------------------|---|
| _____       | _____               | _____                | _____              | _____   |
| _____       | _____               | _____                | _____              | _____   |
| _____       | _____               | _____                | _____              | _____   |

**INSTRUCTIONS:** Provide below the names, home addresses, dates of birth, and ownership interest of all individuals not listed above, and any partnerships, corporations and any other owner having a 10% or greater interest in the firm named above. If a listed owner is a corporation or partnership, provide below the same information for the holders of 10% or more interest in that corporation or partnership. If additional space is necessary, provide that information on an attached sheet. **If there are no owners with 10% or more interest in your firm, enter "None" below.** Complete the certification at the bottom of this form. If this form has previously been submitted to the Purchase Bureau in connection with another bid, indicate changes, if any, where appropriate, and complete the certification below.

| <u>NAME</u> | <u>HOME ADDRESS</u> | <u>DATE OF BIRTH</u> | <u>OFFICE HELD</u> | <u>OWNERSHIP INTEREST</u><br>(Shares Owned or % of Partnership) |
|-------------|---------------------|----------------------|--------------------|---|
| _____       | _____               | _____                | _____              | _____   |
| _____       | _____               | _____                | _____              | _____   |
| _____       | _____               | _____                | _____              | _____   |

### COMPLETE ALL QUESTIONS BELOW

|  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 1. Within the past five years has another company or corporation had a 10% or greater interest in the firm identified above?<br>(If yes, complete and attach a separate disclosure form reflecting previous ownership interests.)  | _____      | _____     |
| 2. Has any person or entity listed in this form or its attachments ever been arrested, charged, indicted or convicted in a criminal or disorderly persons matter by the State of New Jersey, any other State or the U.S. Government? (If yes, attach a detailed explanation for each instance)   | _____      | _____     |
| 3. Has any person or entity listed in this form or its attachments ever been suspended, debarred or otherwise declared ineligible by any agency of government from bidding or contracting to provide services, labor, material, or supplies? (If yes, attach a detailed explanation for each instance)   | _____      | _____     |
| 4. Are there now any criminal matters or debarment proceedings pending in which the firm and/or its officers and/or managers are involved? (If yes, attach a detailed explanation for each instance)   | _____      | _____     |
| 5. Has any Federal, State or Local license, permit or other similar authorization, necessary to perform the work applied for herein and held or applied for by any person or entity listed in this form, been suspended or revoked, or been the subject of any pending proceedings specifically seeking or litigating the issue of suspension or revocation? (If yes, attach a detailed explanation for each instance) | _____      | _____     |

**CERTIFICATION:** I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that **I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers or information contained herein.** I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option, may declare any contract(s) resulting from this certification void and unenforceable.

I, being duly authorized, certify that the information supplied above, including all attached pages, is complete and correct to the best of my knowledge, I certify that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

PRINT OR TYPE:

FEIN/SSN#: \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

## **DISCLOSURE OF INVESTIGATIONS AND ACTIONS INVOLVING BIDDER**

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition.

### **Investigation**

Indicate "NONE" if no investigations were undertaken. Attach additional pages if necessary.

| <b>Person or Entity</b> | <b>Date of Inception</b> | <b>Brief Description</b> | <b>Disposition/Status (if applicable)</b> | <b>Bidder Contact Name and Telephone Number for additional information</b> |
|-------------------------|--------------------------|--------------------------|---|--|
|                         |                          |                          |   |  |
|                         |                          |                          |   |  |
|                         |                          |                          |   |  |
|                         |                          |                          |   |  |

### **Litigation/Administrative Complaints**

Indicate "NONE" if no Litigation/Administrative Complaints. Attach additional pages if necessary.

| <b>Person or Entity</b> | <b>Date of Inception</b> | <b>Caption of the Action</b> | <b>Brief Description of the Action</b> | <b>Current Status/Disposition, (if applicable)</b> | <b>Bidder Contact Name and Telephone Number for additional information</b> |
|-------------------------|--------------------------|------------------------------|--|--|--|
|                         |                          |                              |  |  |  |
|                         |                          |                              |  |  |  |
|                         |                          |                              |  |  |  |
|                         |                          |                              |  |  |  |

## **ATTACHMENT C**

### **AFFIRMATIVE ACTION SUPPLEMENT**

All references to the Department of the Treasury, Division of Purchase within this Attachment D shall mean the New Jersey Commerce, Economic Growth and Tourism Commission (the "COMMISSION").

All references to the State Treasurer within this Attachment D shall mean the Secretary and Chief Executive Officer of the COMMISSION.

This page shall be appended to any form in Attachment D that is submitted by the bidder or contractor.

## AFFIRMATIVE ACTION SUPPLEMENT

| <b>AFFIRMATIVE ACTION</b>  | <b>TERM CONTRACT - ADVERTISED BID PROPOSAL</b>  |
|--|---|
| DEPT OF THE TREASURY<br>DIVISION OF PURCHASE & PROPERTY<br>STATE OF NEW JERSEY<br>33 WEST STATE STREET, 9TH FLOOR<br>PO BOX 230<br>TRENTON, NEW JERSEY 08625-0230  | <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <span>NAME</span> <span>OF</span> <span>BIDDER:</span> </div> <hr style="border: 0.5px solid black; margin: 0;"/> |
| <b>SUPPLEMENT TO BID SPECIFICATIONS</b>  |   |
| <p><b>DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:</b></p> <ol style="list-style-type: none"> <li>1. THE CONTRACTOR OR SUBCONTRACTOR, WHERE APPLICABLE, WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, SEX, AFFECTIONAL OR SEXUAL ORIENTATION. THE CONTRACTOR WILL TAKE AFFIRMATIVE ACTION TO ENSURE THAT SUCH APPLICANTS ARE RECRUITED AND EMPLOYED, AND THAT EMPLOYEES ARE TREATED DURING EMPLOYMENT, WITHOUT REGARD TO THEIR AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, SEX, AFFECTIONAL OR SEXUAL ORIENTATION. SUCH ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: EMPLOYMENT, UPGRADING, DEMOTION, OR TRANSFER; RECRUITMENT OR RECRUITMENT ADVERTISING; LAYOFF OR TERMINATION; RATES OF PAY OR OTHER FORMS OF COMPENSATION; AND SELECTION FOR TRAINING, INCLUDING APPRENTICESHIP. THE CONTRACTOR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES TO BE PROVIDED BY THE PUBLIC AGENCY COMPLIANCE OFFICER SETTING FORTH PROVISIONS OF THIS NONDISCRIMINATION CLAUSE;</li> <li>2. THE CONTRACTOR OR SUBCONTRACTOR, WHERE APPLICABLE WILL, IN ALL SOLICITATIONS OR ADVERTISEMENTS ,FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR, STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT WITHOUT REGARD TO AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, SEX, AFFECTIONAL OR SEXUAL ORIENTATION.</li> <li>3. THE CONTRACTOR OR SUBCONTRACTOR, WHERE APPLICABLE, WILL SEND TO EACH LABOR UNION OR REPRESENTATIVE OR WORKERS WITH WHICH IT HAS A COLLECTIVE BARGAINING AGREEMENT OR OTHER CONTRACT OR UNDERSTANDING, A NOTICE, TO BE PROVIDED BY THE AGENCY CONTRACTING OFFICER ADVISING THE LABOR UNION OR WORKERS' REPRESENTATIVE OF THE CONTRACTOR'S COMMITMENTS UNDER THIS ACT AND SHALL POST COPIES OF THE NOTICE IN CONSPICUOUS PLACES AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT.</li> <li>4. THE CONTRACTOR OR SUBCONTRACTOR, WHERE APPLICABLE, AGREES TO COMPLY WITH THE REGULATIONS PROMULGATED BY THE TREASURER PURSUANT TO P.L. 1975, C. 127, AS AMENDED AND SUPPLEMENTED FROM TIME TO TIME AND THE AMERICANS WITH DISABILITIES ACT.</li> <li>5. THE CONTRACTOR OR SUBCONTRACTOR AGREES TO ATTEMPT IN GOOD FAITH TO EMPLOY MINORITY AND FEMALE WORKERS CONSISTENT WITH THE APPLICABLE COUNTY EMPLOYMENT GOALS PRESCRIBED BY N.J.A.C. 17:27-5.2 PROMULGATED BY THE TREASURER PURSUANT TO P.L. 1975, C. 127, AS AMENDED AND SUPPLEMENTED FROM TIME TO TIME OR IN ACCORDANCE WITH A BINDING DETERMINATION OF THE APPLICABLE COUNTY EMPLOYMENT GOALS DETERMINED BY THE AFFIRMATIVE ACTION OFFICE PURSUANT TO N.J.A.C. 17:27-5.2 PROMULGATED BY THE TREASURER PURSUANT TO P.L. 1975, C. 127, AS AMENDED AND SUPPLEMENTED FROM TIME TO TIME.</li> <li>6. THE CONTRACTOR OR SUBCONTRACTOR AGREES TO INFORM IN WRITING APPROPRIATE RECRUITMENT AGENCIES IN THE AREA, INCLUDING EMPLOYMENT AGENCIES, PLACEMENT BUREAUS, COLLEGES, UNIVERSITIES, LABOR UNIONS, THAT IT DOES NOT DISCRIMINATE ON THE BASIS OF AGE, CREED, COLOR, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, SEX, AFFECTIONAL OR SEXUAL ORIENTATION, AND THAT IT WILL DISCONTINUE THE USE OF ANY RECRUITMENT AGENCY WHICH ENGAGES IN DIRECT OR INDIRECT DISCRIMINATORY PRACTICES.</li> <li>7. THE CONTRACTOR OR SUBCONTRACTOR AGREES TO REVISE ANY OF ITS TESTING PROCEDURES, IF NECESSARY, TO ASSURE THAT ALL PERSONNEL TESTING CONFORMS WITH THE PRINCIPLES OF JOB-RELATED TESTING, AS ESTABLISHED BY THE STATUTES AND COURT DECISIONS OF THE STATE OF NEW JERSEY AND AS ESTABLISHED BY APPLICABLE FEDERAL LAW AND APPLICABLE FEDERAL COURT DECISIONS.</li> <li>8. THE CONTRACTOR OR SUBCONTRACTOR AGREES TO REVIEW ALL PROCEDURES RELATING TO TRANSFER, UPGRADING, DOWNGRADING AND LAYOFF TO ENSURE THAT ALL SUCH ACTIONS ARE TAKEN WITHOUT REGARD TO AGE, CREED, COLOR, NATIONAL ORIGIN, ANCESTRY, MARITAL STATUS, SEX, AFFECTIONAL OR SEXUAL ORIENTATION, AND CONFORM WITH THE APPLICABLE EMPLOYMENT GOALS, CONSISTENT WITH THE STATUTES AND COURT DECISIONS OF THE STATE OF NEW JERSEY, AND APPLICABLE FEDERAL LAW AND APPLICABLE FEDERAL COURT DECISIONS.</li> </ol> <p>THE CONTRACTOR AND ITS SUBCONTRACTORS SHALL FURNISH SUCH REPORTS OR OTHER DOCUMENTS TO THE AFFIRMATIVE ACTION OFFICE AS MAY BE REQUESTED BY THE OFFICE FROM TIME TO TIME IN ORDER TO CARRY OUT THE PURPOSES OF THESE REGULATIONS, AND PUBLIC AGENCIES SHALL FURNISH SUCH INFORMATION AS MAY BE REQUESTED BY THE AFFIRMATIVE ACTION OFFICE FOR CONDUCTING A COMPLIANCE INVESTIGATION PURSUANT TO SUBCHAPTER 10 OF THE ADMINISTRATIVE CODE (NJAC17:27).</p> <p><b>* NO FIRM MAY BE ISSUED A PURCHASE ORDER OR CONTRACT WITH THE STATE UNLESS THEY COMPLY WITH THE AFFIRMATIVE ACTION REGULATIONS</b></p> <p style="text-align: center;"><b><u>PLEASE CHECK APPROPRIATE BOX (ONE ONLY)</u></b></p> <p><input type="checkbox"/> I HAVE A CURRENT NEW JERSEY AFFIRMATIVE ACTION CERTIFICATE, (PLEASE ATTACH A COPY TO YOUR PROPOSAL).</p> <p><input type="checkbox"/> I HAVE A VALID FEDERAL AFFIRMATIVE ACTION PLAN APPROVAL LETTER, (PLEASE ATTACH A COPY TO YOUR PROPOSAL).</p> <p><input type="checkbox"/> I HAVE COMPLETED THE ENCLOSED FORM AA302 AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT.</p> |   |

# INSTRUCTIONS FOR COMPLETING THE AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT (FORM AA302)

## IMPORTANT:

READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. PRINT OR TYPE ALL INFORMATION. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE.

**Item 1** - Enter the Federal Identification Number assigned to the Contractor or vendor by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, but not yet issued, write the words "applied for",

or

If your business is such that you have not, or will not receive a Federal Employee Identification Number, enter the Social Security Number assigned to the single owner or to a partner, in case of partnership.

**Item 2** - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business, check the predominant one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

**Item 3** - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

**Item 4** - Enter the name by which the company is identified. If there is more than one company name, enter the predominant one.

**Item 5** - Enter the physical location of the company, include City, County, State and Zip Code.

**Item 6** - Enter the name of any parent or affiliated company including City, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

**Item 7** - Check the appropriate box for the total number of employees in the entire company. "Entire Company" shall include all facilities in the entire firm or corporation, including part-time employees, not use those employees at the facility being awarded the contract.

**Item 8** - Check the box appropriate to your type of company establishment. Single-establishment Employer shall include an employer whose business is conducted at more than one location.

**Item 9** - If multi-establishment was entered in Item 8, enter the number of establishments within the State of New Jersey.

**Item 10** - Enter the total number of employees at the establishment being awarded the contract.

**Item 11** - Enter the name of the Public Agency awarding the contract. Include City, State and Zip Code.

**Item 12** - Enter the appropriate figures on all lines and in all columns. THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT. DO NOT list the same employee in more than one job category.

Racial/Ethnic Groups will be so defined:

Black: Not of Hispanic origin. Persons have origin in any of the Black racial groups of Africa.

Hispanic: Persons of Mexican, Puerto Rican, Cuban or Central or South American or other Spanish culture or origin, regardless of race.

American Indian or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander: Persons having origin in any of the peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands. This area includes for example, China, Japan, the Philippine Islands and Samoa.

**Item 13** - Check the appropriate box, if the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

**Item 14** - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

**Item 15** - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

**Item 16** - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

**Item 17** - Print or type the name of the person completing this form. Include the signature, title and date.

**Item 18** - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

**State of New Jersey**  
**AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT**

**IMPORTANT - READ INSTRUCTIONS ON PRIOR PAGE CAREFULLY BEFORE COMPLETING FORM. TYPE OR PRINT SHARP BALL POINT PEN. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE.**

**SECTION A - COMPANY IDENTIFICATION**

|  |   |   |
|--|---|---|
| 1. FID. NO. OR SOCIAL SECURITY   | 2. TYPE OF BUSINESS<br><input type="checkbox"/> 1. MFG. <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE<br><input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER | 3. TOTAL NO. OF EMPLOYEES IN THE ENTIRE COMPANY |
| 4. COMPANY NAME  |   |   |
| 5. STREET  | CITY  | COUNTY      STATE      ZIP CODE                 |
| 6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)   |   | CITY      STATE      ZIP CODE                   |
| 7. DOES THE ENTIRE COMPANY HAVE A TOTAL OF AT LEAST 50 EMPLOYEES? <input type="checkbox"/> YES <input type="checkbox"/> NO                 |   |   |
| 8. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER |   |   |
| 9. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN N.J.: [      ]   |   |   |
| 10. TOTAL NUMBER OF EMPLOYEES AT THE ESTABLISHMENT WHICH HAS BEEN AWARDED THE CONTRACT: [      ]   |   |   |
| 11. PUBLIC AGENCY AWARDED CONTRACT:  |   | CITY      STATE      ZIP CODE                   |

**OFFICIAL USE ONLY**

| DATE RECEIVED | COUNTY | OUT OF STATE PERCENTAGES | ASSIGNED CERTIFICATION NUMBER |
|---------------|--------|--------------------------|-------------------------------|
| MO/DAY/YR     |        | MINORITY      FEMALE     |                               |

**SECTION B - EMPLOYMENT DATA**

12. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority categories, in columns 1, 2, & 3.

| JOB CATEGORIES                                 | ALL EMPLOYEES                  |                |                  | MINORITY GROUP EMPLOYEES (PERMANENT) |          |                 |       |        |          |                 |       |
|--|--------------------------------|----------------|------------------|--------------------------------------|----------|-----------------|-------|--------|----------|-----------------|-------|
|  | Col. 1<br>TOTAL<br>(Cols. 2&3) | Col. 2<br>MALE | Col. 3<br>FEMALE | MALE                                 |          |                 |       | FEMALE |          |                 |       |
|  |                                |                |                  | BLACK                                | HISPANIC | AMERICAN INDIAN | ASIAN | BLACK  | HISPANIC | AMERICAN INDIAN | ASIAN |
| Officials and Managers                         |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Professionals                                  |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Technicians                                    |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Sales Workers                                  |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Office and Clerical                            |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Craftworkers (Skilled)                         |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Operatives (Semi-skilled)                      |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Laborers (Unskilled)                           |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Service Workers                                |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| <b>TOTAL</b>                                   |                                |                |                  |                                      |          |                 |       |        |          |                 |       |
| Total employment from Previous Report (if any) |                                |                |                  |                                      |          |                 |       |        |          |                 |       |

The data below shall NOT be included in the request for the categories above.

|  |  |  |  |  |  |   |  |  |  |  |  |
|--|--|--|--|--|--|---|--|--|--|--|--|
| Temporary and Part-time Employees  |  |  |  |  |  |   |  |  |  |  |  |
| 13. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED?<br><input type="checkbox"/> 1. VISUAL SURVEY <input type="checkbox"/> 2. EMPLOYMENT RECORD <input type="checkbox"/> 3. OTHER (SPECIFY) |  |  |  |  |  | 15. IS THIS THE FIRST EMPLOYEE INFORMATION REPORT (AA.302) SUBMITTED?<br><input type="checkbox"/> 1. YES <input type="checkbox"/> 2. NO |  | 16. IF NO, DATE OF LAST REPORT SUBMITTED<br>  MO.   DAY   YEAR |  |  |  |
| 14. DATES OF PAYROLL PERIOD USED   |  |  |  |  |  |   |  |  |  |  |  |

**SECTION C - SIGNATURE AND IDENTIFICATION**

|  |           |         |  |
|--|-----------|---------|--|
| 17. NAME OF PERSON COMPLETING FORM (PRINT OR TYPE)<br>(CONTRACTOR EEO OFFICER) | SIGNATURE | TITLE   | MO.   DAY   YEAR                                   |
| 18. ADDRESS (NO. & STREET)   | (CITY)    | (STATE) | (ZIP CODE)      PHONE (AREA CODE, NO. & EXTENSION) |

**FORM AA302**

**ATTACHMENT D**

**COMPLIANCE WITH MC BRIDE PRINCIPLES AND**  
**NORTHERN IRELAND ACT OF 1989**

All references to the Department of the Treasury, Division of Purchase within this Attachment D shall mean the New Jersey Commerce, Economic Growth and Tourism Commission (the "COMMISSION").

All references to the State Treasurer within this Attachment D shall mean the Secretary and Chief Executive Officer of the COMMISSION.

This page shall be appended to any form in Attachment E that is submitted by the bidder or contractor.

**MACBRIDE PRINCIPLES FORM**

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**NOTICE TO ALL BIDDERS**  
**REQUIREMENT TO PROVIDE A CERTIFICATION**  
**IN COMPLIANCE WITH MACBRIDE PRINCIPLES**  
**AND NORTHERN IRELAND ACT OF 1989**

Pursuant to Public Law 1995, c. 134, a responsible bidder selected, after public bidding, by the Director of the Division of Purchase and Property, pursuant to N.J.S.A. 52:34-12, or the Director of the Division of Building and Construction, pursuant to N.J.S.A. 52:32-2, must complete the certification below by checking one of the two representations listed and signing where indicated. If a bidder who would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Directors may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another bidder who has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Directors find contractors to be in violation of the principles which are the subject of this law, they shall take such action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I certify, pursuant to N.J.S.A. 52:34-12.2 that the entity for which I am authorized to bid:

- \_\_\_\_\_ has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein through the operation of offices, plants, factories, or similar facilities, either directly or indirectly, through intermediaries, subsidiaries or affiliated companies over which it maintains effective control; or
- \_\_\_\_\_ will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

---

**Signature of Bidder**

---

**Name (Type or Print)**

---

**Title (Type or Print)**

---

**Company Name (Type or Print)**

---

**Date**